



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

ELP
Docket No. 3939-00
17 November 2000

Mr. [REDACTED]

Dear Mr. [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 November 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Naval Reserve on 13 December 1991 for eight years. You were ordered to active duty on 9 June 1992 for a period of two years in the seaman apprenticeship program.

The record reflects that on 3 August 1993 you received nonjudicial punishment (NJP) for assault and drunk and disorderly conduct. Punishment consisted of forfeitures of \$407 per month for two months, reduction in rate to SR, and 30 days of restriction. You apparently served without further incident and were honorably released from active duty on 3 May 1994 by reason of "insufficient retainability (economic reasons)", transferred to the Naval Reserve, and assigned an RE-4 reenlistment code.

"Insufficient retainability" means that due to a short time remaining on an enlistment or active obligated service, an individual's retention was precluded due to economic reasons.

Regulations authorize the assignment of an RE-4 reenlistment code to individuals separated for this reason if they are not recommended for reenlistment. The Board noted that nine months after your NJP, you had sufficient time to advance beyond pay grade E-1, but did not. Absent convincing evidence to the contrary, the Board concluded that serious nature of the offense for which you received NJP and your failure to advance beyond pay grade E-1 provided sufficient justification to warrant a non-recommendation for retention and assignment of an RE-4 reenlistment code. The Board thus concluded that the reenlistment code was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director